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# Television across Europe:

## Follow-up Reports 2008

ROMANIA

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This country report was prepared as part of a series of monitoring reports titled ‘Television across Europe: Follow-up Reports 2008’. The series presents an update of the situation in nine of the original twenty countries covered in the 2005 reports series ‘Television across Europe: regulation, policy and independence’. The countries included in the 2008 series are: Albania, Bulgaria, Czech Republic, Italy, Lithuania, Macedonia, Poland, Romania and Slovakia.

Both series of reports have been prepared by the EU Monitoring and Advocacy Program (EUMAP) of the Open Society Institute and by the Network Media Program (NMP) of the Open Society Foundation, in cooperation with local experts. EUMAP and NMP would like to acknowledge the primary role of the following individuals in researching and drafting this country report.

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## Preface

*Television across Europe: Follow-up Reports 2008* is a monitoring project of EUMAP (EU Monitoring and Advocacy Program) at the Open Society Institute and of the Network Media Program at the Open Society Foundation. The project updates and builds on the outcome of the original *Television across Europe: regulation, policy and independence* monitoring reports released in October 2005, which covered 20 countries.

The 2005 reports concluded that the pivotal role of television in supporting democracy in Europe was under threat. It showed that public service broadcasters were being forced to compromise quality to compete with commercial channels, and that many of them depended on Governments or political parties. Moreover, ever-larger concentrations were developing in the commercial sector, often with clear political affiliations. These developments jeopardised broadcasting pluralism and diversity, with the new democracies of Central and Eastern Europe most acutely at risk.

The original *Television across Europe* project and its linked advocacy activities ended in June 2006. Since then, the Network Media Program has funded a number of follow-up projects, carried out by partner organisations in selected countries, aimed at promoting and building on the reports' findings and conclusions.

There have been significant developments in many of the countries covered in the 2005 reports, with respect to many of the areas monitored. Launched in London in March 2008, *Television across Europe: Follow-up Reports 2008* monitors these developments in 9 of the 20 countries that were originally monitored: Albania; Bulgaria; the Czech Republic; Italy; Lithuania; Poland; the Republic of Macedonia; Romania and Slovakia. These countries were selected because of the continuing significant changes in their broadcasting landscape.

*Television across Europe: Follow-up Reports 2008* maps the main changes in broadcasting legislation, policy and market over the past three years and assesses the progress – or lack of – that these countries have made in improving the independence and pluralism of their broadcasting.

As with the original 2005 reports, these updates are addressed to policy makers, civil society activists and academics alike, as a contribution to bringing about change where it is needed.

The 9 country reports were drafted by local experts with the support of partner NGOs. All country reports are based on the same methodology, thus allowing for a comparative analysis. OSI and OSF assume final responsibility for their content.

## About EUMAP

EUMAP, the EU Monitoring and Advocacy Program of the Open Society Institute, monitors the development of selected human rights and rule of law issues in both the European Union and in its candidate and potential candidate countries.

EUMAP works with national experts and nongovernmental organizations (NGOs) to compile reports that are distributed widely throughout Europe and internationally. The reports are designed to encourage broader participation in the process of articulating the EU's common democratic values as well as in ongoing monitoring of compliance with human rights standards throughout the Union.

In addition to these monitoring reports on Televisions across Europe, EUMAP is currently focusing on access to Education for Roma and on the situation of Muslims in selected EU Cities.

Previous EUMAP reports include the 2005 Television across Europe series as well as reports on minority protection, the rights of people with intellectual disabilities, judicial independence, judicial capacity, corruption and anticorruption policy and equal opportunities for women and men.

All EUMAP reports as well as further information on the program are available at [www.eumap.org](http://www.eumap.org).

## About NMP

The Network Media Program seeks to promote independent, professional, and viable media and quality journalism, primarily in countries undergoing a process of democratization and building functioning media markets.

The Media Program supports initiatives aimed at helping media-related legislation conform to international democratic standards, increasing professionalism of journalists and media managers, strengthening associations of media professionals, and establishing mechanisms of media self-regulation. The Media Program also supports media outlets that stand for the values of open society, as well as efforts aimed at monitoring and countering infringements on press freedom, and promoting changes in media policy that ensure pluralism in media ownership and diversity of opinion in media.

Although traditionally the Media Program has focused on Central, Eastern, and South Eastern Europe, CIS, and Mongolia, during the past several years it has expanded to Western and Southern Africa, Southeast Asia, and Latin America.

Television across Europe:  
Follow-up Reports 2008

Romania

By Manuela Preoteasa

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## List of Abbreviations

AMP	Media Monitoring Agency, <i>Agenția de Monitorizare a Presei</i>
ANRCTI	National Authority for Communication and Information Technology, <i>Autoritatea Națională pentru Reglementare în Comunicații și Tehnologia Informației</i>

ARCA	Romanian Association for Audiovisual Communication, <i>Asociația Română de Comunicații Audiovizuale</i>
ARMA	Romanian Association for Audience Measuring, <i>Asociația Română pentru Măsurarea Audiențelor</i>
CA	<i>Board of Directors, Consiliul de Administrație</i>
CJI	Center for Independent Journalism, <i>Centrul pentru Jurnalism Independent</i>
CME	Central European Media Enterprises
CNA	National Audiovisual Council, <i>Consiliul Național al Audiovizualului</i>
CNSAS	National Council for the Study of the Securitate Files, <i>Consiliul Național pentru Studierea Arhivelor Securității</i>
DA	Justice and Truth Alliance, <i>Alianța Dreptate și Adevăr</i>
IGCTI	General Inspectorate for Communications and Information Technology, <i>Inspectoratul General pentru Comunicații și Tehnologie Informației</i>
MCTI	Ministry of Communications and Information Technology, <i>Ministerul Comunicațiilor și Tehnologiei Informației</i>
ORDA	Romanian Office for Copyright, <i>Oficiul Român pentru Drepturile de Autor</i>
OSCE	Organization for Security and Co-operation in Europe
PD	Democrat Party, <i>Partidul Democrat</i>
PLD	Liberal Democrat Party, <i>Partidul Liberal Democrat</i>
PNL	National Liberal Party, <i>Partidul Național Liberal</i>
PSD	Social Democratic Party, <i>Partidul Social Democrat</i>
RAAA	The Romanian Association of Advertising Agencies, <i>Asociația Română a Agențiilor de Publicitate</i>
SRR	Romanian Public Radio, <i>Societatea Română de Radiodifuziune</i>
SRTV	Romanian Television Company, <i>Societatea Română de Televiziune</i>
TVR	Romanian Television, <i>Televiziunea Română</i>

## A. Executive Summary

Despite laudable intentions of reform following the end of Social Democrat rule in the 2004 elections, Romanian broadcasting has been faring worse and worse over recent years. It remains the playground of media moguls whose decisions are dictated by their political and business interests rather than by any endeavour to produce high-quality, independent and diverse television.

There are hundreds of investors in the audiovisual field, but the market continues to be controlled by four large players, while public service television continues to fail in fulfilling its mission as it awaits its perennially deferred restructuring.

The country's four broadcasting behemoths are Central European Media Enterprises (CME), based in Bermuda with an American founder; ProSiebenSat.1, a German broadcast group; the family of an allegedly former collaborator with Romania's *Securitate* (communist secret police); and a capitalist behind the most controversial bankruptcy of an open fund in the country.

As foreseen by the OSI's 2005 report,<sup>1</sup> the concentration of capital in the broadcast market has continued. The broadcast regulator and the anti-monopoly watchdog, the Competition Council (*Consiliul Concurenței*), lack the tools to prevent cross-ownership concentration as the law has not been amended to include provisions against cross-ownership. CME, founded by a former U.S. diplomat, Ronald S. Lauder, and ProSiebenSat.1 have significantly beefed up their established positions in Romania. CME increased its stake in the four channels licensed under Pro TV company, maintained its radio interests, bought a sports channel and entered publishing, printing houses, the cinema and entertainment markets. ProSiebenSat.1, which took over SBS Broadcasting in June 2007, enjoys a dominant position in the radio market where it holds 75 local licences out of a total of 660 radio licences in use.

The National Audiovisual Council (*Consiliul Național al Audiovizualului*, CNA), the industry's main regulator, persevered in forcing applicants for broadcast licences to disclose their ownership. Such was the case of Realitatea Media, holder of a few TV and radio licences, which in December 2005 was obliged by the regulator, acting on one of OSI's recommendations, to clarify the role of controversial businessman Sorin Ovidiu Vântu in its holding. Certain acquisitions in the radio industry were also subject to clarifications regarding ownership. This was the case with the Radio Mix network when it was taken over by SBS Broadcasting. However, the source of investments in commercial broadcasting remains unknown in most cases. Again, legislation still does not require the media to shed light on the source of their financing.

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<sup>1</sup> "Romania", in Open Society Institute, *Television across Europe: regulation, policy and independence*, Budapest, 2005 (hereafter OSI/Romania).

Audience data are still unavailable to the public, with only paid subscribers to the people-measurement companies and the CNA having access to them. The newly adopted Audiovisual Code gathered in a single document all of the CNA's decisions for the sector. Monitoring the implementation of these provisions is part of the CNA's remit. However, the monitoring of compliance with licence conditions is still insufficient, especially with local broadcasters whose ratings are not measured and whose content is not monitored.

The CNA held public consultations before proposing and adopting important decisions. But the same level of transparency was not found in Parliament's work. In some cases of relevant legislation, Parliament ignored both the relevant broadcasting actors and the regulator, even when regulation was at the heart of the debate. There have been isolated cases of MPs trying to be transparent, but in general Parliament has buried good legal initiatives in the broadcasting sector. The bill on the reform of the public service broadcasters, which enjoyed significant public participation in the initial stage, got stuck in the Senate, which has repeatedly come under fierce critical scrutiny for its appalling lack of transparency. The Senate, for example, cancelled the legal process to introduce digitalisation despite the approaching deadline for analogue switch-off in 2012.

As it had done before, Parliament showed interest in reforming the public service broadcasters during the run-up to the autumn 2004 elections. But soon after elections, they lost their reforming zeal. On top of this, Parliament contributed to the further politicisation of public service broadcasting by inadequate legislation and the perpetuation of oversized public broadcasters, which have been struggling to finance their operations. Contrary to OSI's 2005 recommendations on the need for increased transparency around spectrum management, the administration of frequencies was put under direct Government control. In 2007, Parliament adopted legal provisions giving the Chamber of Deputies this responsibility, but the country's President vetoed the amendment, asking Parliament to re-examine the situation.

Commercial media outlets still rely on entertainment and tabloid news, totally ignoring their educational obligations. Emerging niche channels mostly cover news, sports and movies, and not yet education or culture. Public service television and radio focus significantly on the daily agenda in their news programme, ignoring in-depth reporting. Although they try to attract young viewers by changing the format of some programmes, the elderly are their staunchest viewers.

## B. Recommendations

### 1. ORIGINAL RECOMMENDATIONS FROM THE 2005 REPORT<sup>2</sup>

Most of the recommendations from the previous OSI report remain valid. There have been attempts to reform the public service broadcaster, which took into account the OSI's recommendations, but in the end Parliament did not vote to amend legislation, dashing all the efforts in this respect.

#### 1.1 Policy

<ol style="list-style-type: none"> <li>1. The National Audiovisual Council (CNA), should organise public debate involving all relevant actors, including civil society, before adopting any important decision affecting television broadcasters.</li> <li>2. Parliament should consult CNA, and also with civil society actors, when adopting or amending media legislation.</li> <li>3. Regulators and lawmakers should adopt a new strategy which would specify procedures for the introduction of digitalisation that would secure free dissemination of information.</li> </ol>	<p>None of the original recommendations on policy has been fulfilled. On the contrary, Parliament did not even consult the CNA before adopting legislation concerning its legal status and responsibilities.</p> <p>Those recommendations remain pertinent. In particular, Parliament should consult with the CNA and ministries before debating a bill on digitalisation.</p> <p>A strategy for digitalisation is now an urgent priority.</p>
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<sup>2</sup> OSI/Romania, pp. 1,305–1,307.

## 1.2 Regulatory authorities (CNA and IGCTI<sup>3</sup>)

<i>Media diversity and transparency</i>	
<p>4. The CNA should oblige applicants for broadcast licences to disclose their ownership, especially the identity of their shareholders.</p> <p>5. The CNA, in co-operation with the local Competition Council, should enforce restrictions on the concentration of media ownership and cross-ownership. The two institutions should be held accountable for not fulfilling this task.</p> <p>6. The CNA should monitor transfers of broadcast licences, and movements of shares of companies owning such licences, to prevent unlawful concentration of ownership.</p> <p>7. The CNA should publish audience shares of all television stations every month, to strengthen the transparency of the broadcasting market.</p>	<p>The CNA has partly implemented the recommendation on forcing applicants for broadcasting licences to disclose their ownership. At the same time, the regulator has been monitoring the transfer of broadcast licences and movements of shares between broadcasters. However, the regulator has not fulfilled the recommendation on publishing the audience shares of TV stations.</p>
<i>Independence</i>	
<p>8. The Government should ensure the autonomy of the body administering the frequency spectrum, the General Inspectorate for Communications and Information Technology (IGCTI), by changing the procedure of appointing its chair so that the Prime Minister no longer makes the appointment.</p>	<p>This recommendation has not been fulfilled. The IGCTI was dissolved, and management of the frequency spectrum transferred to the National Authority for Communication and Information Technology (ANRCTI). Politicians are now struggling for control over the ANRCTI.</p>
<i>Local television</i>	
<p>9. The CNA should monitor the ownership structures and sources of financing of local television stations.</p> <p>10. The CNA should monitor the content of the local television market to ensure compliance with their remit.</p>	<p>This recommendation has been fulfilled to a certain extent. The CNA published on its website data on ownership structures of broadcasters, based on the broadcasters' own reporting. A bill obliging the media to publish their sources of financing was initiated by the CNA, but it has not yet been adopted by Parliament.</p>

<sup>3</sup> The spectrum management tasks have been taken over by the National Authority for Communication and Information Technology, (*Autoritatea Națională pentru Reglementare în Comunicații și Tehnologia Informației*, ANRCTI).

### 1.3 Public and private broadcasters

11. Broadcasters should support educational and cultural policy in broadcasting, by creating a fund for the support of quality television programming, which should be administered by an independent, private body.	Broadcasters have made no combined efforts to establish a fund for the support of quality television programming. On the contrary, television on nationwide TV stations continues to be dominated by low-grade content.
12. Parliament should initiate amendments to Law 187/1999 to oblige public and private television stations to make public the names of their employees who were former collaborators with the communist secret police (the Securitate). <sup>4</sup>	Parliament has not initiated any legal measures to oblige broadcasters to publicise the names of former collaborators with the Securitate.

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<sup>4</sup> Article 2 (n) of the Law on access to personal files, states that the public: “has the right to be informed, on request, in connection with the position of agent or collaborator of the *Securitate*, as a political police, of the persons who occupy or aspire to be elected or appointed” to dignities or offices including “member on the board of directors of the public radio and television corporations, employer, director, chief editor, editor in the public or private television, radio or written press services, political analysts and the comparable categories”. However, the law does not oblige broadcasters to disclose the names of those of their employees who had collaborated with the *Securitate*.

## 1.4 Public service broadcasters (SRTV and SRR)

<i>Independence</i>	
<p>13. Parliament should take steps to amend the Law on the Romanian Television Company (SRTV) and the Romanian Public Radio (SRR) to ensure the independence and efficiency of public broadcasters.</p> <p>14. Parliament should adopt changes in legislation to ensure the independent position of the public service broadcasting. All segments of the society should be represented in the SRTV's and SRR's Councils of Administration.</p> <p>15. Parliament should adopt changes in legislation to introduce criteria of professional competence in appointing members of SRTV's and SRR's Councils of Administration, as well as at the executive level of the management of the SRR and SRTV.</p> <p>16. Parliament should put forward changes in legislation aimed at separating the positions of the SRTV's Council of Administration's President and Director General.</p> <p>17. Parliament should initiate amendments to the Law on SRR and SRTV to forbid former collaborators with the communist secret police (the Securitate) from being employed in public service broadcasting.<sup>5</sup></p>	<p>None of the recommendations on the independence of public service broadcasters has been fulfilled. They remain highly relevant. The public broadcasters continue to be at the mercy of Parliament, which can sack their entire management by rejecting its annual report.</p> <p>A reformist bill on public broadcasting, taking into account most of the recommendations (including separation of the positions of the SRTV's Council of Administration's President and Director General, involvement of the civil society in appointing the board members and criteria of professional competence) was prepared by a group of reformist MPs in 2006, but it has not been passed as the political will is still lacking. The bill was debated by representatives of the public service broadcasters and media NGOs and approved by the Chamber of Deputies in April 2006, but it never made it to the Senate agenda.</p> <p>The boards of the public service broadcasters continued to be selected on the same old mechanism that keeps both institutions captive to political will. Parliament did not introduce legal provisions ensuring all segments of society are represented in the boards of the public service broadcasters.</p>
<i>Auditing</i>	
<p>18. Parliament should adopt legislation to ensure an independent financial and editorial assessment of the SRR and SRTV.</p>	<p>Parliament has not adopted legal provisions to ensure an independent audit of the public service broadcasters. This recommendation remains pertinent.</p>
<p>19. Civil society should continue to organise regular debates on how the public broadcaster fulfils its mission, inviting all political parties, representatives of regulators, Parliament, other relevant institutions to participate.</p>	<p>This recommendation was fulfilled. After a period of intense activity, however, civil society has almost given up organising debates on how the public service broadcaster fulfils its mission.</p>

<sup>5</sup> According to the SRTV's Organisational and Functioning Regulations (ROF), former collaborators or employees of the *Securitate* are forbidden from working with the SRTV. However, this internal regulation has been employed arbitrarily so far.



## 1.5 Private broadcasters

<i>Transparency</i>	
20. The CNA should oblige private broadcasters to reveal their sources of financing. <sup>6</sup>	This recommendation has not been fulfilled. Civil society organised debates on the need to reveal the sources of financing broadcasters, but the regulator has not made any steps in this regard.
<i>Local broadcasters</i>	
21. Professional associations of journalists should support local television stations in denouncing pressures and censorship by public authorities and various business and political groups of interests. 22. Local broadcasters and advertising agencies should co-operate in setting up a unified system for measuring the audiences of the local broadcasters, and share the costs of its implementation. Introduction of such a system would help local television stations qualify for advertising orders.	<p>This recommendation has not been fulfilled. Local broadcasters continued to be ignored and marginalised by both the regulator and the media community.</p> <p>At the same time, local broadcasters are not taken into account by the advertising industry and continue to struggle economically.</p>

## 2. NEW RECOMMENDATIONS BASED ON THE 2008 REPORT

### 2.1 Regulatory authorities (CNA, ANRCTI)

#### *Media diversity and transparency*

1. The CNA should launch an investigation into cases of illegal ownership.
2. The CNA should initiate a legal proposal aimed at preventing cross-ownership between broadcasters and related fields such as telecommunications, advertising and print media.
3. Parliament should adopt a bill initiated by the CNA, which obliges broadcasters to make public their sources of financing.

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<sup>6</sup> According to the Romanian Constitution: “the media may be obliged by law to disclose their sources of financing”, Constitution of the Republic of Romania, Article 30, para. 5.

### *Independence*

4. The ANRCTI should be organised as an autonomous independent authority under the control of Parliament as a whole, not a single chamber of Parliament.

## **2.2 Public service broadcasters (SRTV and SRR)**

### *Independence*

5. Parliament should change the Law on SRR and SRTV forbidding politicians from becoming Chairs of the public service broadcasters' board. The law should institute strict rules on conflict of interests for board members.
6. Article 14 of the Statute of SRTV Journalists, which restricts journalists' freedom in pursuing investigative stories or reporting in the public interest, should be eliminated.

## **2.3 Private broadcasters**

### *National and local broadcasters*

7. The management of private TV stations and journalists should adopt together a Code of Ethics guaranteeing news journalists' independence from media owners.
8. The management of private broadcasters should invest in training their journalists to raise the standards of professionalism in news reporting.

## C. Main Findings of the Follow-up Monitoring

### 1. GENERAL BROADCASTING ENVIRONMENT

#### 1.1 Key developments in legislation and policy

The legal basis and the strength of the main broadcasting regulator have been much affected by the unexpected death of CNA president Ralu Filip in May 2007. After years during which the CNA had tried to build up its neutrality and credibility, the vacancy left by Filip's death triggered a new wave of political bickering before the elections for European Parliament held on 25 November 2007. (There were political pressures on the CNA even before Filip's disappearance, especially when six of the 11 CNA members ended their mandates in 2006.) (*See section 2.1*)

With different interest groups visibly determined to control the key institutional mechanisms, two reforming bills got stuck in Parliament. One aimed to reform public service broadcasting, while the second was for digitalisation. Both were abandoned after months of public consultations with stakeholders and non-governmental organisations (NGO).

As “the great challenge” for broadcasting in the coming years, as the CNA put it, the digital switch-over requires immediate “compulsory preparations”.<sup>7</sup> In summer 2006, the CNA set up a working group of key stakeholders, including the industry and civil society, to prepare a bill amending the broadcasting law in order to lay the legal ground for digitalisation.<sup>8</sup> The Commission produced a draft law which was then proposed in Parliament by the MPs Valentin Frâncu, Cătălin Micula and Ion Mihai Dumitrescu. Adopted by the Chamber of Deputies on 20 February 2007, this law set up principles for the transition to digitalisation, introduced a new category of licences (for content providers) and a set of conditions limiting the number of licences that a broadcasting company could hold. The law defined nationwide programmes as those reaching over 70 per cent and 60 per cent of the population for radio and television stations, respectively. Regional licences were defined as those covering one or more than one county. Local licences were defined as programmes covering a single local community. Licences to cover only the capital Bucharest were pegged as local.<sup>9</sup>

The anti-concentration provisions of the draft law were scrapped by the Senate Commission for Media, Culture and Arts, on the proposal of the senatorial Judicial Commission. They were then sent to the Government for adoption. The amendments

<sup>7</sup> CNA, “Raport 2006” (Annual Activity report 2006), p. 8, available online (in Romanian) at [http://www.cna.ro/activitate/rapanual/raport\\_cna\\_2006.pdf](http://www.cna.ro/activitate/rapanual/raport_cna_2006.pdf) (accessed 10 October 2007).

<sup>8</sup> Law on Audiovisual 504/2002 (Legea Audiovizualului), *Monitorul Oficial* 534, 22 July 2002 (hereafter Audiovisual Law).

<sup>9</sup> Bill concerning the modification of the Audiovisual Law, registered at the Chamber of Deputies under no. 905, 27 November 2006, Art. 44.

were made to a draft put together by the Ministry of Communications and Information Technology (MCTI).<sup>10</sup> Nobody saw that draft, however. Not even the CNA members were informed about the draft although it contained provisions on the regulator's work. "Digital switch-over will completely reconfigure the broadcasting map. Putting a political body in charge of drawing up anti-concentration rules is an unacceptable [act of] politicisation," said Ioana Avădani, executive director of the Center for Independent Journalism (*Centrul pentru Jurnalism Independent*, CJI) in Romania, a media NGO in Bucharest.<sup>11</sup>

Moreover, the Senate Commission for Media, Culture and Arts, represented by Senators Adrian Păunescu, the commission's Chair, and Otilian Neagoe, introduced an additional provision increasing the tenure of CNA members from six to nine years, and reducing the president's tenure from six to three years. The Senators never explained the reasons behind their move, but according to industry sources who want to remain anonymous, fearing repercussions from the CNA, it was part of a deal between Păunescu, who wanted the CNA to let him produce TV shows despite his political affiliations, and some of the CNA's members who wanted longer terms. Păunescu became a permanent guest at a primetime talk show on Realitatea TV. Eventually, on 8 October 2007, criticism of these articles from civil society and the crass lack of interest in the digitalisation process prompted the Senate to reject the entire bill, bringing to nothing all efforts carried out for launching the complex process of digitalisation. Avădani commented: "It took more than a year and a half to bring all the stakeholders, the regulatory bodies, the industry and the media NGOs together at the same table agreeing on a way to start regulating the field. In the new context, digital switch-over seems impossible by the established deadline."<sup>12</sup>

Besides licensing, the bill contained other important provisions such as an increase from 20 per cent to 40 per cent in the shares that an investor could hold in a second broadcaster and the first regulations of the content aired during electoral campaigns.<sup>13</sup> Another legal initiative of major importance, the bill on public service television and radio, had a similar fate. It was stuck endlessly in the Senate. (*See section 3.1*)

A major development for the entire media was the elimination of prison terms and penal fines for libel passed unexpectedly by the Parliament in 2006. However, the Constitutional Court reversed this decision on 18 January 2007. As the Court's verdict cannot be overruled, Parliament has been forced to maintain libel in the Criminal

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<sup>10</sup> Amendment by the Committee for Culture, Art and Mass-Media, the Senate, Art. 44(1), Bucharest, 11 September 2007.

<sup>11</sup> Interview with Ioana Avădani, Bucharest, 4 October 2007.

<sup>12</sup> *Ibid.*

<sup>13</sup> OSI/Romania, *op. cit.*, p. 1,267.

Code.<sup>14</sup> Miklós Haraszti, the Representative on Freedom of the Media at the Organisation for Security and Co-operation in Europe (OSCE), mentioned his concerns regarding this decision in the course of his periodic report to the OSCE Permanent Council, in March 2007.<sup>15</sup>

Despite journalists' protests, Parliament not only did nothing to scrap the prison terms, but paradoxically started to adopt provisions further restricting the freedom of journalists. This culminated in the adoption of jail terms of up to seven years for journalists broadcasting material that was intercepted or recorded without permission. These amendments to the Criminal Procedure Code were made in October 2007.<sup>16</sup> The move followed a scandal involving the public service television that aired a video featuring the Minister of Agriculture, Decebal Traian Remeş, allegedly receiving a bribe (*See 3.2 PSB governance structure*). Media and human rights NGOs called on Parliament not to introduce these penalties against journalists.<sup>17</sup> With the profession's clout, the penalties were dropped in February 2008.

## 1.2 EU legal provisions

A series of regulations gradually issued by the CNA were unified in the Audiovisual Code audiovisual content regulation, which was approved by the regulator in 2006.<sup>18</sup> The Code contains rules on broadcast content aimed at "harmonising and updating the domestic legislation to the new text of the Television without Frontiers Directive".<sup>19</sup> It introduced a set of new provisions on:

<sup>14</sup> International Research and Exchanges Board (IREX), *Media Sustainability Index (MSI)*, conclusions of a panel moderated by Cristian Ghinea, Bucharest, 18 April 2007 (available online at [http://www.irex.org/programs/MSI\\_EUR/2006/romania.asp#2](http://www.irex.org/programs/MSI_EUR/2006/romania.asp#2), accessed 29 November 2007).

<sup>15</sup> Organization for Security and Co-operation in Europe (OSCE), Regular Report to the Permanent Council by the Representative on Freedom of the Media, Miklós Haraszti, 29 March 2007, p. 9, available online at [http://www.osce.org/documents/rfm/2007/03/23842\\_en.pdf](http://www.osce.org/documents/rfm/2007/03/23842_en.pdf) (accessed 19 December 2007).

<sup>16</sup> D. Tăpălagă, "Închisoare pentru ziariştii care difuzează filme de tip Remeş" (Jail for journalists broadcasting such films as the one about Remeş), *HotNews.ro*, 25 October 2007, available online (in Romanian) at [http://www.hotnews.ro/articol\\_87868-Inchisoare-pentru-ziaristii-care-difuzeaza-filme-de-tip-%27%27Remes%27%27.htm](http://www.hotnews.ro/articol_87868-Inchisoare-pentru-ziaristii-care-difuzeaza-filme-de-tip-%27%27Remes%27%27.htm) (accessed 21 January 2008).

<sup>17</sup> The NGOs The Initiative for a Clean Justice (*Iniţiativa pentru o Justiţie Curată*), the Media Monitoring Agency (*Agenţia de Monitorizare a Presei – AMP*), the Pro Democracy Association (*Asociaţia ProDemocraţia*), and the CIJ, put out a public protest on 28 October 2007. The Association for the Defence of Human Rights in Romania – the Helsinki Committee (APADOR-CH) released their protest on 26 October 2007. The Initiative for a Clean Justice is a coalition of NGOs.

<sup>18</sup> The CNA Decision no. 187/2006 (*Decizia nr. 187/2006 privind codul de reglementare a conţinutului audiovizual*) (hereafter the Audiovisual Code).

<sup>19</sup> CNA, Annual Activity report, 2006, *op. cit.*, p. 8.

- regulations on the use of the hidden camera, voice messages and mobile phone texts;
- sponsorship;
- cultural responsibilities of broadcasters;
- quotas on European and national productions;
- restrictions on the insertion of self-promotional video clips in advertising slots;
- apologetic presentation by broadcasters of crimes and abuses by totalitarian regimes, of authors of such deeds, as well as denigration of their victims.

The Audiovisual Code also imposes specific restrictions on advertising, such as airing the exact concentration of fruit in advertising for juices, etc. “We have very strict regulations on advertising, even tougher than in other EU countries, but we adopted them after consultation with the industry,” said Attila Gasparik, CNA’s vice-President.<sup>20</sup> There was a need to reinforce, for instance, regulations aimed at protecting children as audience studies commissioned by the CNA showed that TV consumption among children was significantly higher than in other European countries, according to Gasparik. On the other hand, the regulator softened certain restrictions after the industry agreed to take care of them through self-regulation, in accordance with European practice. For example, the CNA introduced rules on 23 May 2005 forbidding direct and indirect advertising of print media outlets during newscasts, sports and talk shows.<sup>21</sup> Such provisions were eventually removed from the Audiovisual Code with the regulator hoping that the industry would deal with them through self-regulation.

In February 2006, the Government allowed free retransmission in Romania of programmes aired by broadcasters registered in other EU countries.<sup>22</sup> This prompted some channels to circumvent Romanian regulations by registering outside the country. As a result, the broadcasting of violent and aggressive programmes not allowed by the Romanian Audiovisual Code makes its way to TV screens in the country. By registering in the U.K., for example, channels dedicated to children’s programming sometimes show more violence than a generalist channel headquartered in Romania. Such channels, including Cartoon Network, Fox Kids or Jetix, are accountable to foreign broadcast regulators. The Romanian regulator has warned its U.K. counterpart Ofcom about this practice, but they have not received any reaction because European legislation is not clear in this respect, according to Gasparik. The Romanian regulator

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<sup>20</sup> Interview with Attila Gasparik, CNA vice-President, Bucharest, 14 August 2007.

<sup>21</sup> CNA, Instruction of 23 May 2005, available at <http://www.cna.ro/comunicare/comunic/2005/c0523.html> (accessed 21 January 2008).

<sup>22</sup> Government Emergency Ordinance 3/2006 amending the Law 544/2002, *Monitorul Oficial* 133, 13 February 2006, Art. 1 (Art. 72(2) in the amended law).

then complained to the broadcasting companies themselves, but has received only invitations to visit the broadcasters' studios abroad.<sup>23</sup>

In spite of rejecting the digitalisation bill, the Government paradoxically decided in autumn 2007 that all TV receivers sold in Romania as of 1 January 2008 must be digitally ready, according to EU legislation on universal service and electronic communication networks and services.<sup>24</sup>

### 1.3 Broadcasting market

Romanians trust television a lot, while trust in Government and Parliament has decreased.<sup>25</sup> Nevertheless, despite its huge credibility in polls, television has been losing ground. Overall, the broadcast industry has been faced with a serious slump in viewers. For the first time, TVR lost its lead in the ratings in the first three quarters of 2007 when Pro TV took the lead. In urban areas, TVR's first channel is placed third after Pro TV and Antena 1.<sup>26</sup>

The main reasons behind this shift are the increase of the commercial stations' technical reach thanks to growing cable penetration in the countryside,<sup>27</sup> and a series of financial difficulties and management crises at TVR in summer 2007. As a result, TVR1 aired mostly repeats during the summer, which hit its ratings badly.

Cable coverage increased from 66.4 per cent in 2004 to 76.6 per cent in 2006. Satellite had a slight growth, from 3 per cent of total households in 2004 to 3.7 per cent in 2006. By 2006, just 18.5 per cent of households had only terrestrial analogue television.<sup>28</sup>

Despite overtaking TVR, Pro TV also lost viewers in the first nine months of the year, which was a source of concern for the station's owners, CME.<sup>29</sup> The combined nationwide audience share of CME's three stations – Pro TV, Acasă TV and Pro Cinema – was down 2.4 percentage points on the year to 22.2 per cent in the three-

<sup>23</sup> Interview with Attila Gasparik, *op. cit.*

<sup>24</sup> I. Avădani, "Televizoarele din comerț, pregătite obligatoriu pentru televiziunea digitală" (TV sets, compulsorily ready for digital TV), *Avădani's blog*, posted on 6 October 2007, <http://avadani.hotnews.ro/index.php> (accessed on 29 November 2007).

<sup>25</sup> European Commission Mission, Standard Eurobarometer, TNS Opinions and Social, Bucharest, 11 July 2007, p. 8.

<sup>26</sup> TNS-AGB, data provided by Gabriela Stoica, Communications Director with CNA, 9 October 2007.

<sup>27</sup> According to data released at a news conference of Sweden's mobile phone holding Ericsson, 7 May 2007.

<sup>28</sup> The source of these data is Establishment Survey 2006 (TNS-CSOP and IMAS)

<sup>29</sup> CME, "Quarterly report for the quarterly period ended 30 September 2007", as filed with the Security and Exchange Commission (SEC), U.S.A., 1 November 2007, p. 52.

quarter period. With the popularity of South American *telenovelas* plummeting and other channels airing similar productions, women-oriented Acasă TV also saw its audience share sink by 3.1 per cent during the period. The whole market lost in the same period three percentage points. This was due to unusually warm weather, which prompted people to spend more time outdoors, and to the increasing popularity of other forms of entertainment.<sup>30</sup>

Concerns about loss of viewers were also found at the public service broadcaster. “It is highly important to maintain the quality, but we have to pack the message in a commercial way, otherwise we risk becoming a niche channel,” read the Annual report of the Romanian Television Company (*Societatea Română de Televiziune*, SRTV).<sup>31</sup> At the same time, niche channels such as all-news Realitatea TV and tabloid OTV have consolidated their positions.

**Table 1. TV audiences<sup>32</sup>**

Channel	2005		2006		1 January – 30 September 2007	
	Rating	Audience share	Rating	Audience share	Rating	Audience share
Pro TV	2.7	15.7	2.6	15.6	2.2	14.2
TVR1	3.2	18.9	2.8	16.7	1.9	12.3
Antena 1	2.3	13.6	2.3	13.5	1.8	11.8
Acasă TV	1.4	8.1	1.3	7.7	1.1	4.7
TVR2	0.9	5.2	0.9	5.3	0.7	4.7
Prima TV	0.8	4.5	0.7	4.2	0.7	4.7
Realitatea TV	0.6	3.4	0.8	3.7	0.6	3.9
B1TV	0.2	1.2	0.3	1.4	0.2	1.4

Source: TNS-AGB, data provided by CNA and SRTV

<sup>30</sup> According to CME report, *op. cit.*, p. 52.

<sup>31</sup> SRTV, Annual Activity report, 2006, p. 9.

<sup>32</sup> Nationwide, all-day average, 2005–2007, as a percentage.



**Table 2. Urban TV audiences<sup>33</sup>**

Channel	2005		2006		1 January – 30 September 2007	
	Rating	Audience share	Rating	Audience share	Rating	Audience share
Pro TV	3.0	17.5	3.0	17.5	2.5	15.6
Antena 1	2.4	13.7	2.3	13.6	1.9	12.2
TVR1	1.9	11.1	1.9	11.4	1.3	8.4
Acasă TV	1.8	10.1	1.5	8.9	1.1	7
Prima TV	0.9	5.1	0.8	4.7	0.8	5
Realitatea TV	0.8	4.4	0.8	4.7	0.7	4.7
TVR2	0.7	4	0.6	3.4	0.5	3.2
B1TV	0.3	1.6	0.3	1.8	0.3	1.7

Source: TNS-AGB, data provided by CNA (obtained on 9 October 2007)

## **2. REGULATION AND LICENSING OF THE TELEVISION SECTOR (NATIONAL, REGIONAL AND LOCAL BROADCASTERS)**

### **2.1 Regulatory authorities and framework**

The mandates of six of the 11 CNA members expired in 2006 and Parliament appointed new members. Five of these were nominated jointly by the Senate and the Chamber of Deputies and one by the Presidency. Parliament, however, postponed the appointments, blocking the activity of the CNA for three months.<sup>34</sup> This was the result of some politicians' will to change the appointment procedures and increase the number of members in a way that "would have jeopardised the independence of the Council", as it would have selected members for purely political reasons.<sup>35</sup> In the end, Parliament rejected the new procedures and appointed the new members.

Ralu Filip ran the CNA until his sudden death on 22 May 2007. He had been appointed in 2002 with a six-year mandate. Although the law did not allow for an

<sup>33</sup> All-day, 2005–2007, as a percentage.

<sup>34</sup> CNA, Annual Activity report, 2006, op. cit., p. 6.

<sup>35</sup> CNA, Annual Activity report, 2006, op. cit., p. 7.

interim position, Parliament decided to “test” Filip’s replacement by granting them a probationary position in the first instance. (According to the Audiovisual Law, the president of the CNA is appointed by Parliament at the proposal of the CNA members.)

Coincidentally, the regulator’s presidency became vacant shortly before the head of SRTV resigned. This was an opportunity for politicians to negotiate the two positions on a “one for you – one for me” principle. First, the opposition Social Democratic Party (PSD) tried to push Valentin Nicolau, controversial head of SRTV between 2002 and 2005,<sup>36</sup> for the vacancy at the CNA. He was appointed as a member of the CNA in June 2007, with PSD politicians hoping his promotion to President would soon follow. Instead, one week after his appointment, the presidency went to writer Răsvan Popescu, a CNA member since September 2000, and the preferred candidate of the governing National Liberal Party (PNL). Popescu worked as a journalist with the BBC and TVR between 1992 and 1998. After 1998, he worked as a Government spokesman and then advisor to the country’s Presidency.

In exchange, PSD executive secretary Alexandru Sassu was given the top position at SRTV. It was the first time in SRTV’s post-communist history that a politician had taken the helm. Sassu had the advantage of knowing the legislation well, as he had spent ten years on the Senate Commission for Media, Culture and Arts. The new heads of both the CNA and SRTV were appointed on an interim basis.

In 2007, ANRCTI took over responsibility for technical authorisation and management of the frequency spectrum from the IGCTI, which entered under the ANRCTI’s wing.<sup>37</sup> The IGCTI is an autonomous public institution fully financed by its own revenues and directly accountable to the Government.<sup>38</sup> The ANRCTI is one of 22 agencies under Government control.<sup>39</sup> But its status was intended to be changed in October 2007 when it was put under the control of the Chamber of Deputies. However, President Traian Băsescu vetoed the bill, changing ANRCTI’s status and referring the bill to the Constitutional Court, asking for the regulator to be put under the control of both chambers of Parliament. A verdict in this case is still expected. However, a national strategy for frequency allocation is still lacking despite repeated calls from the CNA for its adoption.<sup>40</sup>

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<sup>36</sup> OSI/Romania, *op. cit.*, pp. 1,264–1,274.

<sup>37</sup> The Government Emergency Ordinance no. 25/2007 concerning the establishment of certain measures for re-organizing the working body of the Government, *Monitorul Oficial* 270/2007, 23 April 2007.

<sup>38</sup> OSI/Romania, *op. cit.*, pp. 1,247–1,248.

<sup>39</sup> Government Emergency Ordinance 134/2006 concerning the establishment of the National Regulatory Authority for Communications and Information Technology, *Monitorul Oficial*, 1046/2006, 29 December 2006.

<sup>40</sup> Interview with Attila Gasparik, *op. cit.*

## 2.2 Licensing system

Over the past three years, a major development in broadcasting has been the issue of 62 local television licences and 53 local radio licences. This brought the total number of broadcasters in mid-2007 to 662 radio and 260 TV broadcasters, making Romania “the second largest broadcasting market in Central and Eastern Europe”.<sup>41</sup>

Valentin Nicolau, former President and Director General of SRTV and a CNA member for just a week, received a licence for Nemira FM, a radio channel focused on culture and science. Targeted at children, Radio Itsy-Bitsy was launched in 2005 by Nadia and Felix Tătaru, a couple working in the advertising industry. The Romanian Christian Orthodox Church, dominant in the country, received a licence for Radio Trinitas, the second religious channel in the country to Vocea Speranței (Voice of Hope) run by the Seventh-day Adventist Church.

Without any national licences up for grabs, the big players in broadcasting shopped around for local networks. Two such transactions have been concluded over the recent years. The first was the Radio Mix network. Its owner, the company Canet, controlled by the liberal politician Aristotel Cănescu, head of the County Council of Braşov, was purchased by two firms. The Scandinavian media giant, SBS Broadcasting, bought 20 per cent of the company, with the rest acquired by Media Office Services, controlled by Nora Marcovici, CEO of the Kiss FM radio network. She then ceded the stake to New Century Media Holding BV, apparently controlled by Gabor Benke, Chief Advisor to MTM SBS Television in Hungary. At the time of the transaction, SBS Broadcasting owned Prima TV and the Kiss FM and Star FM radio networks, which link 52 local stations across the country. None of the parties would reveal the price of the transaction. In June 2007, ProSiebenSat.1 Media entered the Romanian market when it bought the entire SBS Broadcasting Group in a deal worth €3.3 billion.

In a separate deal, Europa FM radio network bought the DEEA radio network.<sup>42</sup> Europa FM is majority-owned by the French media conglomerate Lagardère, which also holds 20 per cent of Radio XXI, the leading commercial radio network in urban areas, with the remainder in the hands of a Czech company, Corsum Invest, represented by Michal Lobkowicz and Adam Blecha, the latter a vice-President of the Czech Lagardère Group.

Fotbal Club Steaua, a football club partly owned by controversial politician and businessman George Becali, asked the CNA for a licence to operate Becali TV. The regulator postponed the decision several times, most recently in September 2007. The CNA members expressed reservations regarding Becali’s programme plan. At the same time, the CNA’s Gasparik asked for the station’s ownership details. The CNA granted

<sup>41</sup> CNA, “Statistici cu privire la licențe” (Statistics regarding licences), 29 June 2007, available online (in Romanian) at <http://www.cna.ro/licente/concurslic/statistica.jpg> (accessed on 17 October 2007).

<sup>42</sup> CNA website, [http://www.cna.ro/licente/concurslic/act\\_site.pdf](http://www.cna.ro/licente/concurslic/act_site.pdf) (accessed 30 October 2007).

several new TV licences, mostly for niche channels such as all-news Antena 2, two music channels, the life-style channel Good Life, and the police documentary station Crime+.

In 2006, the CNA monitored 36 TV channels and a total of 8,823 TV programmes, accounting for 16,000 broadcast hours. It imposed a number of fines, most of them (19) for failure to protect children and breaching rules on sponsorship, advertising, teleshopping, correctly informing, and pluralism. The highest number of warnings (39) was issued for failure to inform correctly.<sup>43</sup>

Run as an apartment-based TV studio, Oglinda TV (OTV) has seen its popularity skyrocket thanks to its abysmal tabloid programming, which includes long debates with interviewees making personal confessions or accusations often without evidence. Despite its overall low professional standards, the station is extremely attractive for a certain scandal-oriented audience. Owned by Dan Diaconescu, who hosts many of the channel's programmes, OTV has received the highest number of warnings, sanctions and penalties. These included an order to interrupt programming for three hours during primetime on 11 October 2007, with an obligation to air the warning. This decision was triggered by a talk show during which a child was asked on TV about his missing mother. That was against the Audiovisual Code, which does not allow TV stations to interview children under 14 about dramatic events or situations. In 2006, the station had to switch off its programmes once for three hours and twice for 10 minutes. It had also received 25 fines and 15 warnings. In October 2007, controversial businessman Sorin Ovidiu Vântu<sup>44</sup> was reported to be closing a deal to take over a majority stake in OTV. However, the transaction cannot be completed without the CNA's approval.<sup>45</sup>

The second worst offender was Antena 1, which was penalised and warned mostly for breaching provisions on protection of children and human dignity. Few broadcasters contested CNA's sanctions in court and when they did, they won.

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<sup>43</sup> CNA Annual report, *op. cit.*, p. 10.

<sup>44</sup> Vântu was involved in one of the largest financial scandals in the country, the bankruptcy of the National Investments Fund (FNI). He was indicted in several lawsuits under accusations of fraud. Most of the charges have been dropped due to the length of the trials.

<sup>45</sup> E. Şercan, "Vântu cumpără OTV" (Vântu buys OTV), *Evenimentul Zilei*, 26 October 2007, available online (in Romanian) at <http://www.evz.ro/article.php?artid=328155> (accessed 31 October 2007).

### 3. REGULATION AND MANAGEMENT OF PUBLIC SERVICE TELEVISION BROADCASTING (PSB)

#### 3.1 PSB legislation and policy

TVR continued to be at the mercy of Parliament, which has the authority to sack the station's entire management by rejecting its annual report.<sup>46</sup> Over the past three years, two Boards of Directors (*Consiliul de Administrație*, CA) were dismissed by Parliament in this way. In both cases, the President-Directors General (Nicolau and Tudor Giurgiu) resigned to avoid being sacked. In early 2005, a parliamentary commission was set up to investigate public service radio and television, following accusations of censorship by a group of employees from both the SRR and SRTV, targeting Dragoș Șeuleanu and Valentin Nicolau (then the heads of SRR and SRTV, respectively). The public hearings were lengthy, with MPs examining the finances of both institutions. They criticised the broadcasters, asking the governmental National Anti-Corruption Department to look into the matter. According to the MPs' final report, neither SRTV nor SRR fulfilled its public service mandate, often defaulting on the obligation to ensure political and social pluralism, the free expression of ideas and opinions, the free delivery of information and impartially informing the public.<sup>47</sup>

The report revealed four areas where public service obligations were breached:

- distortion of public service obligations,
- faults in the managerial and institutional performance,
- severe infringements of the law such as unreasonable spending of public money, followed by no sanctions against those responsible,
- infringements of the Audiovisual Law and the Law on SRR and SRTV<sup>48</sup> by enforcing them arbitrarily.

Contrary to its public service mission, SRTV aired sensationalist news in primetime programmes, promoted low diversity of political points of view in favour of highly placed politicians, manipulated the news programmes in order to avoid Government criticism, hosted tedious debates during the electoral campaigns, lacked a critical stance

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<sup>46</sup> OSI/Romania, *op. cit.*, p. 1,257.

<sup>47</sup> Report of the Parliamentary Commission of investigation on SRR and SRTV activity, voted on 12 May 2005, Bucharest, available online (in Romanian) at [http://www.cdep.ro/comisii/ancheta\\_tvr-srr/pdf/2005/rd\\_0520.pdf](http://www.cdep.ro/comisii/ancheta_tvr-srr/pdf/2005/rd_0520.pdf), (accessed on 5 October 2007), p. 69, (hereafter Parliamentary Report on SRR and SRTV).

<sup>48</sup> Law on SRR and SRTV no. 41/1994, republished (Legea Societății Române de Radiodifuziune și a Societății Române de Televiziune), *Monitorul Oficial*, 153/1994, 18 June 1994.

towards the ruling parties, and misinformed the viewers by omitting events and topics that would have harmed the image of the public authorities.<sup>49</sup>

The head of SRTV, Valentin Nicolau, stated during parliamentary hearings that he always tried to be a screen against political pressures. When he opposed them, the pressures were redirected towards lower management and even the newsroom. SRR's former head Dragoș Șeuleanu admitted that to a certain extent it became normal to receive phone calls from politicians with suggestions on what to broadcast. The parliamentary report also criticised "the anticipatory obedience of certain journalists, producers, editors-in-chief and department directors".<sup>50</sup> The report concluded that the station's objectivity and neutrality were vitiated. However, the parliamentary investigation did not bring any judicial outcome or audit. Instead, it had a tremendous psychological impact, prompting several managers to resign, including the station's Programme Director Titi Dincă and the News Director Lucian Sârb. Their quitting followed the resignation of the station head himself – who tried, however, to keep his seat until the last moment.

Knowing very well how the Romanian political system works, Nicolau anticipated that a highly reformist bill on public broadcasting would never pass. On 12 May 2005, when the parliamentary report was released, Nicolau said: "As for changing Law 41/1994 on SRR and SRTV, have you ever heard of a ruling party politician really wanting it? They will postpone it again and again until fate puts them back in opposition. Only then they will become the defenders of public television's independence."<sup>51</sup>

Nicolau's predictions came more or less true. The initiators of public broadcasting reform, Raluca Turcan, Valentin Iliescu and Cristian Rădulescu, were gradually kicked out from the ruling Justice and Truth Alliance (*Dreptate și Adevăr*, DA), which split in March 2007 into three separate entities: the National Liberal Party (*Partidul Național Liberal*, PNL), headed by the country's Prime Minister Călin Popescu-Tăriceanu; the Liberal Democrat Party (PLD); and the Democratic Party (PD).

"The planned postponement of a new regulatory framework still put those institutions under suspicions of politicisation, which will be a major weakness during the electoral campaigns," said Raluca Turcan from PLD, former President of the Commission for Culture, Art and Media in the Chamber of Deputies.<sup>52</sup> Romania is to host local and national elections in 2008 and presidential elections in 2009.

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<sup>49</sup> Parliamentary Report on SRR and SRTV, *op. cit.*, pp. 69–72.

<sup>50</sup> *Ibid.*

<sup>51</sup> "Declarația lui Valentin Nicolau referitoare la antepunerea comisiei de anchetă" (Valentin Nicolau's statement concerning the ante-pronouncing of the investigation commission), news release, Bucharest, 12 May 2005.

<sup>52</sup> Interview with Raluca Turcan, Bucharest, 25 September 2007.

### 3.2 PSB governance structure

The boards of SRR and SRTV managers (appointed in two rounds, in 2005 and 2007) continued to be selected on the same old mechanism that keeps both institutions captive to the political will. After the appointment of the boards in the autumn of 2005, the stations gradually organised contests to fill the key executive positions in both radio and TV broadcasters. Some journalists renowned for their professionalism and credibility were selected. They included Dana Deac, who took over the TVR1 channel, and Rodica Culcer, who was appointed to run TVR's News Department.

TVR's President-Director General between autumn 2005 and summer 2007 was Tudor Giurgiu, a film director. Giurgiu started to re-organise SRTV a few months after his appointment, which was too late, as he later admitted. Shortly after he dismissed SRTV's Financial Director, Sabina Petre, a media campaign against Giurgiu was launched by *Jurnalul Național*, a daily newspaper belonging to a media group where Petre and her former boss Nicolau went to work after they left TVR. The final blow to Giurgiu, however, came from inside. The station's financial department did not secure the funds that SRTV needed to pay for the broadcasting rights of retransmission of European Champions' League football matches. This provoked public outrage against Giurgiu. The critics focused on SRTV's financial difficulties, which furnished politicians with a perfect excuse to sack him. After losing the support of board members, Giurgiu resigned instead of waiting to be dismissed by means of rejecting his annual report. He said:

Zero moment came once I received the memo of the [SRTV's trade] unions, with a recommendation on behalf of the President of the Senate, Mr. Nicolae Văcăroiu [PSD]: 'Let's be careful with the co-operation with the unions.' It became obvious to me that they tried to get rid of me. The PSD had anyway the majority on the CA [board], [and] the representatives of the employees were in the same boat, so I had the feeling of a dead end.<sup>53</sup>

Giurgiu initially supported SRTV News Director, Rodica Culcer. When political controversies worsened, especially in the highly sensitive period prior to the referendum on sacking the country's President Traian Băsescu in May 2007, Culcer and Giurgiu went to war. On 4 March 2007, Giurgiu announced at a news conference that he was going to fire Culcer. He could do that only by giving her a low mark for her regular work evaluation. Her previous mark was 9.15 on a scale of 0 to 10 where 10 is the best. But the whole affair ended in a stalemate as Culcer took a three-month sick leave. Meanwhile, the situation at SRTV worsened and Giurgiu resigned on 4 May 2007.

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<sup>53</sup> Interview with Tudor Giurgiu, Bucharest, 26 September 2007.

After his appointment by Parliament, Sassu denied intentions to sack Rodica Culcer. Sassu intends to re-organise the institution, but not by firing people.<sup>54</sup> This would anyway be almost impossible due to strong legislation protecting the SRTV's employees. He wants to distribute responsibilities differently. That was, however, a practice that PSD had used in previous years to get rid of people they did not want.

Giurgiu left Sassu a favourable legacy. During Giurgiu's mandate, the News Department was controlled by the President-Director General. This stirred a fierce controversy. While TVR1's director has no power over the channel's news programmes, the subordination of the news department to the station head was seen as an anomaly because the Director General is at the same time the President of the Board (CA), a function controlled by politicians.

Commenting on the alleged politicisation of TVR, especially given his political ties, Sassu said that he has "connections" and "friends" in all parties. He added that in the two months of interim management, he had not received or executed any demands by politicians.<sup>55</sup> However, the first clash between Sassu and the station's News Director erupted faster than expected. On 10 October 2007, TVR broadcast in its primetime newscast a video featuring the minister of agriculture Decebal Traian Remeş allegedly receiving a bribe from Ioan Mureşan, a former Minister of Agriculture, in exchange for favouring businessman Gheorghe Ciorbă in a public tender. The secretly filmed video showed Remeş accepting €15,000, 20 kilos of sausages and 100 litres of plum brandy via a middleman. Remeş resigned, without making any statement. Instead of criticising his colleague, Prime Minister Tăriceanu threw a tantrum against TVR for what he called Remeş's "public execution".<sup>56</sup>

The video stirred a heated debate. Sassu's official position was that the video was illegal and incorrect because it breached the presumption of innocence. He added that the station failed to give Remeş an opportunity to respond. The Media Monitoring Agency (*Agenția de Monitorizare a Presei*, AMP) in Bucharest accused Sassu of censorship. The issue was analysed the next day by the CNA whose members unanimously decided that TVR had served the public interest. Two weeks later, the Ethics Commission of TVR also concluded that the video served the public interest, but criticised the way the footage was packaged. The Commission said that the footage should have been accompanied by a note saying that TVR could not guarantee the authenticity of the video.<sup>57</sup>

<sup>54</sup> Interview with Alexandru Sassu, President-Director General of SRTV, Bucharest, 27 September 2007.

<sup>55</sup> Interview with Alexandru Sassu, *op. cit.*

<sup>56</sup> "Justice for Some", *The Economist*, available online at [http://www.economist.com/world/europe/displaystory.cfm?story\\_id=10064734#Scene\\_1](http://www.economist.com/world/europe/displaystory.cfm?story_id=10064734#Scene_1), 1 November 2007.

<sup>57</sup> TVR, "Conclusions of the Ethical and Arbitrage Commission on the broadcasting of the footage shot with hidden camera", available at [http://www.tvr.ro/articol\\_organizatie.php?id=20356](http://www.tvr.ro/articol_organizatie.php?id=20356) (accessed 16 January 2008).



In the meantime, the Senate Commission for Media, Culture and Arts called Sassu for hearings. The station's board then voted for the news department to be re-organised in two divisions, one dealing with news and sports, which would have an interim manager, Mădălina Rădulescu, and the other working on research for the news programmes. Culcer's role in the department's agenda-setting diminished. Her main responsibility is the management of the two structures. The position of Editor-in-Chief remained vacant. Such re-organisation inside state institutions has been a typical practice through which ruling parties, especially the PSD, managed to reduce the decisional power of non-loyal people. They preferred such strategies to other moves that would have been considered either illegal or as forms of censorship. Further steps to annihilate the independent journalists followed Culcer's isolation. The main editors of the primetime newscast, the Executive Producer Anca Lăzărescu and a group of editors and journalists were shifted by the CA from the primetime news programme to unattractive afternoon or night news slots or to TVR's second channel without Culcer's consultation. These journalists, whose contribution to the news programme has been highly praised by professionals, were replaced by low-profile journalists. Culcer said: "I believe that these changes were made with bad will towards those editors and producers who proved their value and released the TVR news from political servility. I am sorry that they are paying for their association with me. Those changes are a combination of [political] restoration and revenge."<sup>58</sup>

Meanwhile, Culcer sued the SRTV Administration Board protesting against the substantial change of its managerial tasks. "The separation of the position of Director General and President of CA would be a guarantee of non-interference in editorial content," Culcer said.<sup>59</sup> Sassu does not favour the separation, saying it "will create a gap between the Administration Board and the Board of Directors [management]".<sup>60</sup>

The separation of the President and Director General positions was proposed in the reform bill initiated by the MPs Turcan, Iliescu and Rădulescu in February 2006. Hotly debated by the representatives of the public service broadcasters and media NGOs, a draft of the bill seemed to be agreed upon by all parties raising hopes for a favourable vote. Approved by the Chamber of Deputies in April 2006, the bill went to the Senate the same month, but it never made it to the Senate agenda. According to the bill, the Administration Board members were to be appointed on criteria of performance and competence, without a conflict of interests.

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<sup>58</sup> A. Pora, "În TVR a început reorganizarea prin restaurație: Editorii aduși de Rodica Culcer au fost scoși de la Jurnalul de ora 19.00" (Re-organisation through restoration: Editors brought by Rodica Culcer were eliminated from the 7 p.m. Newscast), *HotNews.ro*, available online (in Romanian) at [http://www.hotnews.ro/articol\\_87498-Editorii-adusi-de-Rodica-Culcer-au-fost-scosi-de-la-Jurnalul-de-ora-19-00.htm](http://www.hotnews.ro/articol_87498-Editorii-adusi-de-Rodica-Culcer-au-fost-scosi-de-la-Jurnalul-de-ora-19-00.htm) (accessed on 22 October 2007).

<sup>59</sup> Interview with Rodica Culcer, Bucharest, 21 September 2007.

<sup>60</sup> Interview with Alexandru Sassu, *op. cit.*

The bill proposed:

- a different composition of the Administration Board: seven members nominated by parliamentary parties; two from the civil society; three by each Presidency; the Government and minorities;
- barring politicians with executive position in a certain party from being appointed to the Administration Board;
- enforcing conflict of interests rules;
- separation of the position of Director General from the President of the Administration Board;
- a contest for the position of Director General of the two public service broadcasters;
- increased transparency with yearly editorial and organisational audits and publicly available board decisions;
- moving the decision on setting the licence fee from the Government to Parliament.

In its 17-year post-communist history, SRR and SRTV served the mercantile interests of a group of politicians who tried to use them as tools of manipulation, said Turcan.<sup>61</sup>

### 3.3 PSB funding

The funding of public service broadcasting still cannot sustain SRTV and SRR at their current sizes. The bulk of financing for both the public service broadcasters comes from the licence fee collected from households. Individuals pay a fee of €1.2 and companies €4.5 per month. The fee has not been linked to inflation since 2003. According to Maria Țoghină, the current President-Director General of SRR, only 60 per cent of households pay the fee. The remainder are exempt. Many of them gain exemption based only on their own statement that they do not possess a radio or TV set.<sup>62</sup>

Tudor Giurgiu called on Parliament to increase the television fee, but when he lost the MPs' favour his initiative was dropped. His successor said that he wanted to achieve "some results" before asking Parliament to increase the fee.<sup>63</sup> The licence fee share in SRTV's total revenues decreased from 74 per cent in 2004 to 60 per cent in 2006. At

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<sup>61</sup> Interview with Raluca Turcan, *op. cit.*

<sup>62</sup> Interview with Maria Țoghină, Bucharest, 27 September 2007.

<sup>63</sup> CJI, "Vulnerabilități și puncte forte ale media publice înainte de alegeri" (Weaknesses and strengths of the public media before the elections), Bucharest, 4 October 2007, available (in Romanian) at <http://www.cji.ro/userfiles/file/documente/tendinte4.doc> (accessed 24 January 2008), pp. 60–67.

the same time, expenses have increased every year. As for SRR, its financial difficulties are so pressing that, Țoghină says, they threaten its daily operations.

**Table 3. SRTV total budget (2004–2006)**

	Total income (€ million)	Source of income (as percentage of total income) <sup>64</sup>		
		Licence fee	State subsidies	Advertising and sponsorship
2006	142.4	60.0	23.0	15.0
2005	121.4	68.1	19.2	11.0
2004	103	74.0	14.0	11.0

Source: SRTV, Activity Report for 2006

**Table 4. SRTV total expenses (2004–2006)**

	Total expenses (€ million)	Breakdown of expenses (as a percentage of total expenses)				
		Outsourced operation costs <sup>65</sup>	Human resources	Taxes	Amortisation costs	Risk provision
2006 <sup>66</sup>	148	44.4	33.8	11.5	8.0	0.4
2005	114.5	48.0	33.0	9.9	8.8	0.3
2004	89.5	73.0	29.0	7.0	7.0	-16.0

Source: SRTV, Activity Report for 2006

### 3.4 Editorial standards

The Journalists' De-ontological Code became part of the Collective Salary Agreement in the media sector in 2006. It was the initiative of MediaSind, an umbrella organisation for trade unions from mostly the public media.<sup>67</sup> It claims to represent the

<sup>64</sup> Some additional minor sources of income were not included.

<sup>65</sup> This includes copyrights for feature films and programmes, payment for part-time collaborators, building's maintenance, insurance, etc.

<sup>66</sup> Some additional minor expenses for 2006 were not included.

<sup>67</sup> An online version of this contract is available (in Romanian) at <http://www.mediasind.ro/ccm.doc> (accessed 25 January 2008).

journalism profession at large. MediaSind promoted a Collective Salary Agreement with various rights for journalists such as entitlement to a salary at least 25 per cent higher than the statutory minimum wage.

The Code includes a set of principles and norms guiding journalists' work such as honest behaviour, incompatibility with membership in political parties and encouragement to use ethical means to obtain information. The Code states that conflicts among journalists should be resolved amiably or addressed to the Parity Commission, a 12-member body tasked to solve a broad set of complaints, including breach of the right to reply. The Commission's members represent equally the unions and the media owners. It has not yet issued any decisions.

## 4. COMMERCIAL BROADCASTING

### 4.1 Regulation and management

The newly adopted Audiovisual Code has become the industry's Bible, nailing down the main rules of the broadcasting sector. Nevertheless, there are channels that continue to ignore these rules registering abroad. In addition to this, most of the broadcasters drafted their own de-ontological codes. But those apply mostly to journalists and cannot save the broadcasters' managers from the proprietors' interference and pressures.

### 4.2 Ownership and cross-ownership

Competition and professionalism have increased on the Romanian broadcasting market, which is characterised by oligopoly.<sup>68</sup> A few media groups have continued to dominate the broadcasting industry. Most of the major media owners have close connections with business or political circles. Some of the owners are "wolves in sheep's clothing". But "they are the only dance partners for individuals and institutions who want media aid in their political and economic endeavours".<sup>69</sup>

American journalism professor Peter Gross wrote:

[Dan] Voiculescu, a former agent of the notorious *Securitate*, Romania's version of the KGB, is not alone in using his media outlets for political purposes while claiming to be the victim of a system he is innocent of creating; Sorin Ovidiu

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<sup>68</sup> G. Doyle, *Understanding Media Economics*, Sage Publications (fourth edition), London, Thousand Oaks, New Delhi, 2005.

<sup>69</sup> M. Coman, Dean of the Faculty of Journalism and Communication Sciences, cited in P. Gross, *Dances With Wolves. A meditation on the media and political system in the European Union's Romania*, a paper based on a presentation at the "Hour of Romania" conference organised by the Russian and East European Institute at Indiana University, Bloomington, 22–24 March 2007, p. 5.

Vântu, Dinu Patriciu, Valentin Păunescu, Viorel and Ioan Micula, Liviu Luca, Verestoy Attila, Sorin Marin [in 2006 apparently withdrawn from the media business], and Adrian Sârbu own major media enterprises and are also leaders of political parties, MPs or businessmen with strong political interests, ties or ambitions who wield their media outlets like broadswords.<sup>70</sup>

For the first time, the National Council for the Study of the *Securitate* Files (*Consiliul Național pentru Studierea Arhivelor Securității*, CNSAS) stated that Senator Dan Voiculescu collaborated with the *Securitate* during communism. Owner of the second largest media empire in Romania, Voiculescu transferred his shares in the holding owning Antena 1 TV station to his daughters a few years ago. One of them is an executive in the company. In mid-2007, soon after receiving the announcement on his involvement with *Securitate*, Voiculescu attacked the CNSAS' finding in court. In late January 2008, in a stunning decision, the Constitutional Court decided to dissolve the CNSAS. The decision stirred outrage in the civil society, with numerous organisations calling on the Government to reverse the Court's decision.

In the 1990s, Voiculescu founded a media group that now controls the TV stations Antena 1, Antena 2 and Antena 3, the daily newspaper *Jurnalul Național*, and the weekly *Săptămâna financiară*. He exerts a lot of influence on the outlets that he owns. For example, on 2 May 2007 he called a talk-show on Antena 3 and was allowed to insult the Minister of Justice Monica Macovei. He stated during the show that "it was a real pleasure for him to insult her". Following the programme, the CNA issued a public letter saying that "Voiculescu had an insidious, aggressive attitude towards Macovei's statements." When the moderator tried to intervene to balance the debate, as requested by the audiovisual legislation, Voiculescu admonished her.<sup>71</sup> Macovei was one of the ministers who fought corruption in the country and was therefore much praised by Brussels.

Politicians at local level are also deeply involved in the media business.<sup>72</sup> Media Index, a website ([www.mediaindex.ro](http://www.mediaindex.ro)) launched in 2006, published ownership data on all media outlets in the country.<sup>73</sup> Overall, the transparency of media ownership has improved, but some companies still hide their ownership in offshore jurisdictions. They include the Bucharest channel B1TV, with its major shareholder Ismar

<sup>70</sup> P. Gross, *Dances With Wolves, A meditation on the media and political system in the European Union's Romania*, op. cit., p. 5.

<sup>71</sup> CNA, Letter, 3 May 2007, quoted by HotNews.ro, "Jignirile lui Dan Voiculescu la adresa Monicăi Macovei stârnesc îngrijorarea CNA" (Dan Voiculescu's insults to Macovei raise CNA's concern," available at [http://www.hotnews.ro/arhiva/articol\\_1083372/jignirile\\_voiculescu\\_adresa\\_monica\\_macovei\\_starnesc\\_ingrijorarea.htm](http://www.hotnews.ro/arhiva/articol_1083372/jignirile_voiculescu_adresa_monica_macovei_starnesc_ingrijorarea.htm) (accessed 21 January 2008).

<sup>72</sup> M. Coman, P. Gross, *Media and Journalism in Romania*, European Journalism Review Series, Berlin, Germany, Vistas Verlag, 2006, p. 66.

<sup>73</sup> The Media Index was a 2006 project of several media NGOs led by the Center for Independent Journalism (CJI) and sponsored by the U.S. Embassy in Bucharest.

International NV based in the Netherlands Antilles; Radio Total, controlled by a company called Comac Ltd. Cyprus (reportedly in the hands of Sorin Ovidiu Vântu and his cronies); local Pratech TV owned by the Cyprus-based Central and Eastern European Investment Fund Ltd (CEEIF); Radio XXI controlled by the firm Czech Corsum Invest A.S.; and Radio Mix owned by News Century Media Holding BV based in the Netherlands.

The broadcast media continue to be in the hands of a small group of players. As of July 2007, the CME group and its Romanian partner Adrian Sârbu, the Voiculescu family, businessman Sorin Ovidiu Vântu, public service SRTV and SBS Broadcasting controlled a combined 72 per cent of the entire broadcast market.<sup>74</sup>

**Table 5. The audience of the major players (breakdown by ownership)**

Major owner	CME (95 per cent), Adrian Sârbu (5 per cent)	SRTV	Voiculescu family	SBS Broadcasting	Sorin Ovidiu Vântu	Other
Share	26	22.1	15.1	4.7	3.7	28.4

Source: I. Comănescu<sup>75</sup>

CME increased its stake in Romanian broadcasting from 80 per cent in 2005 to 95 per cent in autumn 2007, following a multi-year payment to the current minority shareholder and COO of CME's Pro TV station, Adrian Sârbu who had been appointed to lead CME's Eastern and Central European operations in 2006.<sup>76</sup> CME also made a set of new acquisitions. It bought the full stake in TV Sport and beefed up its investments in 2007 with a series of media outlets controlled by Sârbu, including the private news agency Mediafax, which serves nearly 90 per cent of the Romanian media, the daily newspaper *Ziarul Financiar*, and the local weekly newspapers *Bănăţeanul*, *Ieşeanul*, *Bihoreanul*, *Sibianul*, *Hunedoreanul*, and *Ziarul Clujeanului*. All the remaining shares in Media Pro are owned directly or indirectly by Sârbu. Media Pro-related companies operate in the fields of publishing, information, printing, cinema, entertainment and radio in Romania.<sup>77</sup>

In a joint venture with the Swiss Ringier group, Kanal D, owned by the Turkish group Dogan, entered the Romanian market in 2007. However, its audience was very modest

<sup>74</sup> I. Comănescu, *Trends on the media coverage by media III: Concentration of ownership and competences in Romanian media*, p. 28, available (in Romanian) at <http://www.cji.ro/userfiles/file/documente/tendinte3.pdf> (accessed 10 October 2007).

<sup>75</sup> I. Comănescu, *Trends on the media coverage by media III*, *op. cit.*

<sup>76</sup> CME report, *op. cit.*, p. 11.

<sup>77</sup> CME report, *op. cit.*, p. 11.

in the first nine months of 2007. Ringier is a large publisher, running on the Romanian market the tabloid daily *Libertatea*, the daily *Evenimentul Zilei*, the sports daily *Gazeta Sporturilor*, and the economic weekly *Capital* plus a number of women's, youth, and TV schedule magazines. There are no regulations on cross-ownership; the Audiovisual Law only imposes restrictions within the broadcast sector, more specifically within the radio and TV industries.<sup>78</sup> An entity can be a majority stakeholder in one "broadcasting company" and can hold a maximum of 20 per cent in other such companies. Despite this clear limitation, a company can hold an unlimited number of broadcast licences.<sup>79</sup> For example, when the group Realitatea Media, majority-owned by Sorin Ovidiu Vântu, took over Radio Guerilla in May 2006, it exceeded the 20 per cent limit. But Realitatea Media asked the CNA to approve the transfer of Radio Guerilla to Realitatea Media, the company holding the licences for all the outlets in the group. So the 20 per cent limit can be bypassed by simply asking the regulator to allow for the transfer of the licence to the majority owner. Media companies can do this as long as they do not gain a national market share above 30 per cent.<sup>80</sup>

Under pressure from civil society groups, media owners have had to become more transparent. Following the launch in 2005 of the "Romania" chapter in the OSI's *Television across Europe* report, the CNA asked Realitatea Media to disclose the identity of the group's real owner within 60 days. The regulator knew only that the company was owned by an entity registered in Cyprus where confidentiality of ownership data is ensured. Businessman Sorin Ovidiu Vântu declared in early 2006 that he was the full owner of Realitatea Media, which owns the all-news channel Realitatea TV and a few local TV and radio stations. Vântu's ownership is problematic as the Audiovisual Law forbids a convicted criminal from holding audiovisual licences. (Vântu reportedly spent years in jail for fraud between November 1982 and September 1987.)<sup>81</sup> Offshore registration continues to be one of the favourite tricks that Romanian media owners employ to hide their ownership. Antena 4, a recently launched entertainment channel belonging to the Voiculescu family is 30 per cent-owned by the Cyprus-based business Abacus, according to data reported by the company to the regulator. Abacus is at the same time the company owning the myriad of businesses controlled by the renowned tennis player and businessman Ion Țiriac.<sup>82</sup>

<sup>78</sup> Audiovisual Law, Art. 44 (1–10).

<sup>79</sup> Audiovisual Law, Art. 44 (9).

<sup>80</sup> Audiovisual Law, Art. 44 (3).

<sup>81</sup> M. Minca, "Vântu, haiducul brânzoiacelor", *Evenimentul Zilei*, 23 January 2007, available (in Romanian) at <http://www.evz.ro/article.php?artid=288977> (accessed 20 January 2008).

<sup>82</sup> M. Ciorcan, "Țiriac reinventează sistemul firmă în firmă prin off-shore în off-shore" (Țiriac reinvents the system "company in company" through "off-shore in off-shore", *Romania liberă*, 19 May 2005, available (in Romanian) at <http://www.9am.ro/stiri-revista-presei/Business/11010/Tiriac-reinventeaza-sistemul-firma-in-firma-prin-off-shore-in-off-shore-.html> (accessed 20 January 2008).

### 4.3 The advertising market

The total advertising market in Romania was estimated at €520 million in net figures in 2007, with television controlling more than half. According to other sources, the net value of the ad market was €485 million in 2007.<sup>83</sup> The advertising companies estimate a growth of up to 20 per cent for the year 2008.<sup>84</sup>

**Table 6. Share of ad spending (2006–2007) – as a percentage**

Medium	Share	
	2006	2007
Television	60.4	57.0
Print media	23.4	25.0
Radio	7.4	9.0
Outdoor	6.6	8.0
Other (including Internet)	2.2	1.0

Source: ARBO media estimates<sup>85</sup> and Media Hub<sup>86</sup>

Pro TV continued to control the largest chunk of the TV ad spending in the country although its share went down, due mainly to the continual fragmentation of the TV ad market. The total ad revenues of the three largest channels in the country dropped significantly, from 48.7 per cent in 2004 to 40 per cent in 2006.

<sup>83</sup> Initiative Media, *Media Fact Book 2007*, 13 July 2007, Bucharest.

<sup>84</sup> C. Ionescu, "Romania advertising map 2008: who will get the laurels on a market of over 600 million euro", *HotNews.ro*, available online at [http://english.hotnews.ro/stiri-business-2262273-romania\\_advertising\\_map\\_2008\\_who\\_will\\_get\\_the\\_laurels\\_market\\_over\\_600\\_million\\_euro.htm](http://english.hotnews.ro/stiri-business-2262273-romania_advertising_map_2008_who_will_get_the_laurels_market_over_600_million_euro.htm) (accessed on 29 January 2008).

<sup>85</sup> IP International Marketing Committee, *Television 2007. International Key Facts*, October 2007, p. 327, (hereafter IP International Marketing Committee, *Television 2007*).

<sup>86</sup> P. Barbu, "Piața publicității românești a depășit 500 milioane de euro în 2007" (The advertising market went over €500 million in 2007), *Adevărul*, 9 January 2008, available online (in Romanian) at <http://www.adevarul.ro/articole/piata-publicitatii-romanesti-a-depasit-500-milioane-de-euro/337225> (accessed on 29 January 2008).



**Table 7. Share of TV advertising revenues (2004–2006)**

Station	Share		
	2004	2005	2006
Pro TV	18.7	16.7	15.2
Prima TV	5.6	14.2	14.2
Antena 1	13.0	11.2	11.0
Acasa TV	7.1	8.2	10.8
National TV	1.7	5.9	8.7
TVR 1	17.0	9.3	8.4
Realitatea TV	2.0	7.9	7.7
B1 TV	1.4	7.9	7.5
Pro Cinema	n.a.	4.5	4.9
TVR 2	6.7	2.1	4.5
Discovery	n.a.	0.5	3.0
MTV Romania	0.9	2.6	2.9
Other	23.9	8.1	1.2

Source: Alfa Cont Mediatrack<sup>87</sup>

Advertising growth has been upset by high pressures on production costs. Overall, Pro TV, for example, saw its programming costs go up by approximately €1 million a month in 2007, compared with 2006.<sup>88</sup> These pressures were mainly triggered by the increase in the copyright fees and the introduction of VAT on film broadcast rights in 2005. In autumn 2005, the Government increased several-fold the fee paid to the collective copyright bodies under the Romanian Office for Copyright (*Oficiul Român pentru Drepturile de Autor*, ORDA). The Minister of Culture, Adrian Iorgulescu, who initiated the document, used to be the head of one of these bodies. The Romanian Association for Audiovisual Communication (*Asociația Română de Comunicații Audiovizuale*, ARCA), the main association of the private broadcast industry, protested repeatedly against this move, arguing that the hike in fees would have a negative effect on the broadcasting sector and pointing out that Romania has become the most expensive country in terms of copyright fees, which are 15.4 per cent for television and

<sup>87</sup> IP International Marketing Committee, *Television 2007*.

<sup>88</sup> CME Annual Report, *op. cit.*, p. 52.

12.8 per cent for radio.<sup>89</sup> With the increase in the copyright fees, SRTV saw its expenses go up by €230,000 a month in 2006 against the previous year.<sup>90</sup> On top of that, SRTV must contribute 15 per cent of its advertising revenues every year to financing Romanian movies.<sup>91</sup> In January 2006, SRTV financed 22 television film projects, out of 570 applications.<sup>92</sup>

#### 4.4 Editorial standards and independence

A trend dating back to the mid-1990s, tabloidisation has become a permanent characteristic of Romanian television. Scandal and sensationalism have invaded both entertainment and news.<sup>93</sup> “Emotional vampirism”, as it has been called, characterises TV programmes that bristle with accidents, violent deaths and fires.<sup>94</sup> Primetime news programmes on commercial channels have little relevance or consistency. Information is packaged in a way that seeks only to shock or move viewers, ordinary occurrences become news, and concealed cameras are exaggeratedly used to make the programme more appealing.<sup>95</sup> News programmes on public TV provide better reporting and documentation, closely following the most relevant issues of the day, but they are less attractively packaged.

Pro TV’s primetime newscast, which enjoys the highest ratings in the country, lost its credibility after it dedicated excessive time to George Becali, the owner of the Steaua football club. Becali has become the dominant character on Pro TV’s newscast. He appears in the sports news linked with Steaua’s performance or when he makes vitriolic and scandalous attacks on other people, and on the general news programme where he is featured throwing money to the poor. Almost unknown a few years ago, Becali, who also set up his own, right-wing-oriented party, has gradually become the second most popular politician in the country after President Traian Băsescu, according to polls. TV stations throng to air Becali’s appearances, very often peppered with uncivil language.

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<sup>89</sup> Emergency Government Ordinance 123/2005 concerning the modification and completion of the Law 8/1996, *Monitorul Oficial* 843, 19 September 2005.

<sup>90</sup> ARCA, news conferences, Bucharest, 29 November 2005 and 13 March 2006.

<sup>91</sup> Government Ordinance 39/2005 as amended by Law 14/2006, *Monitorul Oficial* 641, 21 July 2005, Art. 17.

<sup>92</sup> SRTV Annual Activity Report, 2006, p. 13.

<sup>93</sup> M. Coman, *Mass-media în societatea post-comunistă* (Mass-Media in post-communist society), Polirom, Iași, 2003, p. 74.

<sup>94</sup> AMP, “Un om a mușcat o știre” (A man bit news), Bucharest, 2006, available in Romanian at [http://www.mma.ro/BAZA%20DE%20DATE/Politica/campanie\\_final1.pdf](http://www.mma.ro/BAZA%20DE%20DATE/Politica/campanie_final1.pdf), p. 9 (accessed on 30 September 2007).

<sup>95</sup> M. Preoteasa, “Two TV networks: two realities” in R. Udovičić, *Indicator of public interest: TV prime time domestic news – monitoring and analysis of TV news programmes in 10 SEENPM countries*, a SEENPM project, Sarajevo, Media Plan Institute, 2007, pp. 190–191.

Becali himself involuntarily shed light on the reasons behind his exposure on Pro TV. On a TV talk show on B1 TV on 7 February 2007, he said that Steaua, Pro TV and the Marriott Hotel concluded an agreement on his promotion on Pro TV in exchange for a settlement of debts between the three parties.<sup>96</sup> A company collaborating with Pro TV had debts to Steaua. The football club owed US\$ 200,000 to the Marriott hotel, where the club had its headquarters. Companies linked with the Pro TV group had similar debts to the hotel. The station would give Becali and Marriott positive coverage in the primetime news programmes in exchange for cancelling the station's debts to the club and the hotel. One way of promoting Becali and Marriott was to shoot the interviews with Becali in his lavish office based in the Marriott.<sup>97</sup> In February 2007, a group of media NGOs called on various authorities including the Financial Guard and the CNA to look into the affair. But there was no outcome. The authorities all said that they could not investigate the matter because relevant documents were lacking.

In June 2007, the CNA set a dangerous precedent by allowing politicians to act as TV moderators in cultural and artistic fields.<sup>98</sup> The move seemed to be a gift to the President of the senatorial media commission, the poet Adrian Păunescu, an artist known for his close links with dictator Ceausescu's communist regime. After 1989, Păunescu moderated hours of talk shows.<sup>99</sup>

Changes in the broadcasters' editorial teams could be noticed on the eve of major political events. On 26 October 2007, Antena 1's management replaced Vlad Petreanu from the position of News Director with a less known journalist. None of the parties commented on the move, but the switch was feared to weaken the independence of the station's news programme just before the launch of the electoral campaign for the first European elections, on 25 November 2007.

## 4.5 Regional and local broadcasting

The censorship case of Canal 7 TL+ in the town of Baia-Mare, in north-west Romania, was eventually won by the journalist Ioan Romeo Roşianu. He had his contract terminated in 2004 after airing a series of reports on how public money was spent by

<sup>96</sup> G. Lăcătuş, D. Lazăr, "Becali şi-a cumpărat ştirile Pro TV" (Becali bought the Pro TV news), *Cotidianul*, 10 February 2007, available online (in Romanian) at <http://www.cotidianul.ro/index.php?id=9236&art=24395&cHash=85b33aca85> (accessed on 10 October 2007).

<sup>97</sup> Ş. Căndea, „Ghici cine vine la ştiri?” (Guess who comes to the news programme?), *MediaIndex.ro*, the site of the Romanian Centre for Investigative Journalism, available online (in Romanian) at <http://crji.org/news.php?id=127&l=1> (accessed 3 December 2007).

<sup>98</sup> Excerpt from the CNA public works, Bucharest, 13 June 2007, available online (in Romanian) at <http://www.cna.ro/activitate/extras/070613.html> (accessed 20 September 2007).

<sup>99</sup> See OSI/Romania, p. 1,275.

the town's mayor, Cristian Anghel.<sup>100</sup> Roşianu accused Anghel of pressuring the Canal 7 TL+'s management to replace Roşianu's critical talk show with a programme promoting Anghel's activities. Roşianu also revealed that the City Hall had an advertising contract with the station. Roşianu won, and the courts obliged the mayor to pay damages worth RON 50,000 (Romanian New Lei), or €14,000. Roşianu received the compensation. He did not ask to be reinstated at Canal 7 TL+ as he had in the mean time founded his own publication.<sup>101</sup>

Journalists working with local broadcasters often face cases where rich businessmen who own the outlets in question use them as tools to pursue their political ambitions and interests. Dan Tăpălagă, a journalist who has worked for both nationwide and local media outlets, said: "The supreme gods are media owners, a few moguls, oligarchs, very powerful people (Vântu, Voiculescu, Sârbu, Patriciu); the marketing divisions are the lesser gods; sometimes advertising salesmen use the information [produced by journalists] to conclude a[n advertising] contract."<sup>102</sup>

Apart from censorship and economic pressures, excessive tabloidisation spoils the quality of local television programmes. Adrian Voinea, Editor-in-Chief of the regional daily *Gazeta de Sud*, criticised the predominance of entertainment on television. "I do not see an increase in quality. From my point of view, we have only entertainment. Serious issues are dealt with as if they were entertainment."<sup>103</sup> Investigative reporting has been almost absent on TV screens, with a few exceptions mainly on social topics.

## 5. PROGRAMMING

### 5.1 Output

News programmes dominate on TVR1 and Pro TV (some 25 per cent of total programming). Antena1 and Prima TV also air a substantial amount of news programmes (some 20 per cent). The largest amount of news is paradoxically aired by OTV and B1TV, stations with modest ratings under one per cent. They do so because it is cheap to produce tabloid news programmes based on reporting without serious checking on scandal, rumours and gossip. Entertainment predominates on Antena1 while Pro TV focuses on movies. Some stations have pioneered innovative, interactive television programmes, including opinion polls. They included the talk show *Zece*

<sup>100</sup> See OSI/Romania, p. 1,277.

<sup>101</sup> Interview with Romeo Roşianu, via phone, 16 January 2008.

<sup>102</sup> D. Tăpălagă, editor with *HotNews.ro*, made these statements at the TV talk-show "Who makes the law in media business?", *Realitatea TV*, transcript by Media Monitoring, published on *Comanescu's Blog*, available online (in Romanian) at <http://comanescu.hotnews.ro/la-realitatea-despre-cine-face-legea-in-presa.html#more-1629>, 10 June 2007, (accessed 3 December 2007).

<sup>103</sup> IREX, *Media Sustainability Index*, *op. cit.*

*pentru România* (Ten people for Romania) with the participation of a large number of people, and *Mari români* (Great Romanians), a programme modelled on the BBC's *Greatest Britons* format aired by TVR1. The public TVR1, Antena 1 and B1 TV rely mostly on in-house productions while Pro TV outsources more than half of its programming.

Overall, sports and weather attract the largest audience. On public television, the World Football Championship 2006 and the UEFA Football championship scored the highest ratings in 2006, followed by *Mari români* and the reality show *Surprise, surprize* (Surprises, surprises), one of the most popular programmes on public television in many years. However, TVR1 saw its ratings fall over the first nine months of 2007. Highly praised in 2006 for its quality programmes such as the scientific magazine *Dincolo de hartă* (Beyond the map), the travel programme *Bazar* (Bazaar), and the in-depth news show *Top 7*, TVR2 had to suspend some of these programmes in 2007 because of financial difficulties. A programme such as *Bazar* costs only €2,000 per programme. But even that is too expensive today for SRTV, which incurred losses of €9 million in the first six months of 2007. In 2006, TVR2 managed to attract a more educated audience after it gave up soap operas in favour of better programmes.<sup>104</sup> Following the censorship scandals in October 2007, the situation at SRTV is confusing. This follows appreciations in 2006 when certain observers considered the public service television to be “a trend-setter, both in terms of news programmes but also in terms of good movies”.<sup>105</sup> The station's arts and culture programmes such as *Profesioniştii* (Professionals), *Garantat 100%* (100 per cent Guaranteed) or *Lumea citeşte* (People read) scored good ratings.

All-news Realitatea TV beat TVR1 in the ratings of debates and talk shows. Their programmes gained an average audience of 18.3 per cent against TVR1's 12.2 per cent.<sup>106</sup>

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<sup>104</sup> SRTV Annual Activity Report, 2006, p. 10.

<sup>105</sup> Interview with Ioana Avădani, *op. cit.*

<sup>106</sup> Centre for Urban and Regional Sociology (CURS), audience research commissioned by CNA, June 2006, available in SRTV Annual Activity Report, 2006, p. 33.

**Table 8. Output (main broadcasters – breakdown by genre)**

Channel	News	Education, culture, religion	Movies (including documentaries and cartoons)	Entertainment		Advertising		Minorities	Latest data reported at CNA as of
				Total	Games	Total	Teleshopping		
Antena 1	19	0	25	56	0	0	0		31 August 2006
B1TV	33.73	0.74	14.43	41.98	4.16	9.12	4.96	0	20 November 2003
Național TV	21	1	43	35	0	0	0	n.a.	10 March 2006
OTV	58.57	12	0	14.43	0	15	0	0	20 April 2004
Prima TV	20	4	37	19	0	20	4.59	0	16 September 2004
Pro TV	23.80	2.48	46.33	11.02	0	16.37	1.48	0	8 May 2005
Pro TV International	27	2	31	40					8 September 2005
TVR1	25.67	19.27	24.42	30.64	n.a.	8*	2.53*	4	15 March 2007
TVR2	16.88	25.82	38.09	19.41	n.a.	8.97*	2.29	n.a.	15 March 2007
TVR International	51.44	15.82	12.20	20.54	0	0	0	0	15 March 2007

**Source:** Companies reports, cited by CNA, 9 October 2007.

(\*data at the end of year 2006, according to the SRTV, Activity report for year 2006)

## 5.2 General provisions on news

The Audiovisual Code, which entered into force on 14 April 2007, set up the market's main mechanism for accurate and balanced reporting in the broadcasting field. The Code also makes references to the industry self-regulation instruments.

Television and radio programmes must be in line with the editorial standards put forward by self-regulatory mechanisms, with the European provisions and specific national legislation. They must reflect cultural diversity and respect national and European identity.<sup>107</sup> Each of the two media associations, one representing owners of print media and the second representing broadcasters, has a Code of Ethics that

<sup>107</sup> Audiovisual Code, *op. cit.*, Art. 89.

journalists must comply with.<sup>108</sup> The Romanian Association of Advertising Agencies (RAAA), which represents the advertising industry, set up its own Code of Advertising Practice, officially recognised by the CNA in October 2003. The Code should be observed by all of the association's members.

SRTV is the broadcaster with by far the most complex self-regulation system in place. SRTV employs a set of internal norms regulating the organisation and its functioning. The work of TVR's journalists is also watched by an internal Commission for Ethics and Arbitration (CEA) and an Ombudsman. However, the work of the Ombudsman is carried out with difficulties due to the lack of a team in charge of monitoring and processing feedback from viewers. Moreover, the CEA's decisions do not seem to have much weight at TVR.

Both the referendum on the impeachment of President Bănescu, in spring 2007, and the referendum on the uninominal vote in November 2007 laid the ground for the introduction of a new set of specific rules for broadcasters, chiefly on principles of accurate and balanced reporting, drawn and adopted by CNA.<sup>109</sup> Coverage of the latest referendum by public service media was, however, very limited.

### 5.3 General programme production guidelines

The three-thirds-rule in the news programme (equal broadcasting time for ruling coalition, opposition and independent politicians) changed in 2007. This rule was introduced in 2002, a period when the government was covered excessively while the activity of the political opposition was rarely given time in news programmes. Moreover, certain Government members, such as Adrian Năstase, Prime Minister between 2000 and 2004, were covered excessively. At the same time, the rule could be hardly applied as, in reality, most of the news came from the Government because the opposition and especially the non-Parliamentary parties could not "produce" any newsworthy events.

Therefore, broadcasters said that they have been incorrectly fined for not meeting this provision.<sup>110</sup> The CNA changed the rules of the game, and stated in the Audiovisual Code that ruling parties should benefit from 60 per cent of the time allotted for

<sup>108</sup> R. Martin, "Romania", in M. Preoteasa, *The Business of Ethics, the Ethics of Business, SEENPM – CJI*, Bucharest, 2005, p. 21.

<sup>109</sup> CNA Decision 369/2007 concerning the coverage by the radio and television channels of the referendum of the impeachment of president Bănescu, *Monitorul Oficial* 271, 24 April 2007, Arts. 1–4, 8, 9.

<sup>110</sup> M. Bercea, "Audiovizualul sub lupă" (Broadcasting sector under the magnifying glass), *Revista 22 nor.* 824, 19–25 December 2005), available online (in Romanian) at <http://www.revista22.ro/html/index.php?art=2294&nr=2005-12-19> (accessed 20 January 2008).

political parties, with the remainder to be shared by both opposition and independent politicians. The rule applies to all broadcasters.

## 5.4 Quotas

Incorporated in Romanian legislation, the TVWF Directive, recently amended,<sup>111</sup> obliges broadcasters to reserve the bulk of their air time for European works, with 10 per cent for European works created by independent producers. Most of the stations reported fulfillment of these quotas in 2006. Correlating these figures with the station's output by genre, it turns out that the European works slots were often filled with entertainment and movies while educational and cultural programming has been neglected. All broadcasters should devote at least 30 per cent of their programming to Romanian works.<sup>112</sup> All the channels that reported their figures to the CNA met the requirement, with TVR holding the leading position.

**Table 9. Quota fulfillment by the major Romanian television channels (2006)**

	European Works (per cent)		
	General	Independent productions	Recent independent productions (Article 5, TVWF Directive)
Pro TV	n.a.	n.a.	n.a.
Antena 1	54.92	28.66	27.56
Național TV	54.65	n.a.	n.a.
Prima TV	53.8	48.57	48.57
B1 TV*	76	3.8	15.2
Național TV	54.65	n.a.	n.a.
TVR1	68	20	12

Sources: Stations' own data, as reported to CNA  
(\*1 January 2005–31 December 2006)

Compliance with the rules in the licensing contracts is, however, difficult to assess as most of the channels do not report updated data on their broadcast genres and in-

<sup>111</sup> Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, *Official Journal of the European Union*, 18 December 2007, L 332/27.

<sup>112</sup> Audiovisual Code, *op. cit.*, Art. 90.



house productions. TVR is the exception. The CNA cannot impose any penalties against the stations that fail to report these data.

## 5.5 Obligations on PSB

Only public service broadcasters are obliged to air programmes for minorities. TVR1 airs programmes such as *Kronika* (Chronicle) while TVR2 shows *Szieszta* (Siesta), intended for Hungarians, the largest minority. TVR devotes to the Hungarian minority half of the quota of roughly 4 per cent of aired programming for minorities. Hungarian programmes are followed by German and Roma language programmes.

**Table 10. Minority language programming on TVR (2006) – hours/year**

Channel	Hungarian	German	Other (including Roma)	Annual programme hours
TVR 1	106	63.07	41.17	210.24
TVR 2	94.61	47.30	47.30	236.52

Source: SRTV, Annual Report 2006

Apart from news, SRTV is obliged to provide diverse content ranging from documentaries to TV film productions. In autumn 2007, DOCUmentor, an NGO supporting the production of documentaries, accused SRTV in an open letter of severing their relations with all independent producers of documentaries because of cash shortages. SRTV significantly reduced the acquisition of independent productions in autumn 2007 compared to the previous year. SRTV is trying to fulfil its cultural mission through the channel TVR Cultural, which scores Lilliputian ratings of a bit over zero.

The journalists working with SRTV face constraints imposed by internal regulations such as the 1999 Statute of the journalists working with SRTV, which forbids use of illegal or immoral means to obtain information and shooting with hidden camera and recording of private discussions without the full agreement of those recorded.<sup>113</sup> The problem is that the Statute does not distinguish between recording carried out in the public interest and other ways of surreptitious recording, a distinction that appears in the Audiovisual Code.<sup>114</sup>

<sup>113</sup> SRTV, *The Statute of the journalist working with SRTV*, Art. 14, available online (in Romanian) at [http://www.tvr.ro/articol\\_organizatie.php?id=1505](http://www.tvr.ro/articol_organizatie.php?id=1505) (accessed 7 February 2008).

<sup>114</sup> CNA, *The Audiovisual Code*, *op. cit.*, Art. 38.

## 5.6 Obligations on commercial broadcasters

There have been no major changes in the obligations on commercial broadcasters. In 2006 and 2007, the CNA adopted a few decisions and recommendations applying to commercial broadcasters, including the obligation to include announcements about missing children in primetime newscasts.

## 6. CONCLUSIONS

Television in Romania consists of a mature market of generalist networks, with a few large players betting on sensationalism and entertainment, and an emerging market of niche channels, only a few of them managing to establish their brand recognition. The digital market is still virgin ground. Parliament has failed to lay the legal grounds for the introduction of digitalisation, but the private sector was faster than the authorities. Many of the large broadcasters have started to air digitally, after investing heavily in new digital equipment.

Provisions on broadcasting content have been gathered in a single code. Overall, there are over 200 TV stations in the country, which shows an appetite for investment in the television business. However, the source of the capital in the industry has in most cases remained a mystery, despite constitutional provisions requiring transparency of financing. Anti-concentration provisions can now be better monitored thanks to improved access to ownership data. But there is still a lack of legal tools to prevent concentration as there are no legal restrictions on cross-ownership.

The public service broadcasters face serious financial troubles. Their governing structures still reflect the balance of political power, with civil society still barred from getting their representatives onto these bodies. Moreover, the law lacks any provisions on conflict of interests and the level of competence required for membership of these boards.

SRTV managed to improve the quality and balance of its news programmes. Highly reputed talk shows as well as prize-winning movies and art films helped SRTV gain credibility. However, the station is still under tight political control. The dismissal of the SRTV board in mid-2007 showed that political will still rules in public service broadcasting. The rage of the political establishment after the station aired a video featuring a case of high-level corruption confirmed the corrupt political climate that surrounds SRTV.

In today's Romania, when corruption is exposed in the media, politicians and State authorities, prefer to investigate the journalists who broke the story rather than the story itself. Although their coverage of political disputes is still biased, broadcasters are slowly starting to be treated like real businesses by their owners rather than tools for pursuing personal or business interests. Many of these broadcasters are part of large

media conglomerates or in the process of attracting fresh investors. Yet, after years of stark manipulation, lack of professionalism and cheap sensationalism, it is hard to rebuild the viewers' trust in broadcasting. Viewers today access television mainly for entertainment and look for alternative sources such as niche channels and Internet to get their news. The main challenge for the television of the future in Romania is how to shape a better, more professional sector in the digital age.

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